STATE OF ARIZONA FILED

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DEPARTMENT OF INSURANCE

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In the Matter of:)	Docket No. 95-176
OMAHA PROPERTY AND CASUALTY I	INSURANCE COMPANY)	CONSENT ORDER
Res	spondent.)	

A market conduct examination was made of Omaha Property and Casualty Insurance Company ("OPAC"), by Market Conduct Examiners for the Arizona Department of Insurance ("ADOI"). Based upon the Report of Examination of the Market Conduct Affairs of OPAC, it is alleged that OPAC has violated the provisions of Arizona Revised Statutes, Title 20, Sections 20-385, 20-1631, 20-1632, 20-1632.01, and 20-1652; and Arizona Administrative Code Rule ("A.A.C. R") 4-14-801. OFAC wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona (the "Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by OPAC, and the following Order.

FINDINGS OF FACT

- 1. OPAC is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.
- 2. The Examiners were authorized by the Director to conduct a market conduct examination of OPAC. The on-site examination was concluded as of September 16, 1994 and a Report

of Examination of the Market Conduct Affairs of OPAC ("the Report") was written.

- 3. The Examiners reviewed 74 of the 546 OPAC personal automobile policies with effective dates of January 26, 1994 through September 3, 1994. As to these, OPAC:
- a. issued 17 policies where all drivers on the policies were 65 or older, at the rate for "operators age 50 or older"; and
- b. failed to apply correct territorial classifications to 3 policies (4.5%), resulting in one (1) insured paying \$53 more than he would have paid, and one (1) insured paying \$28 less than he would have paid, had OPAC determined the premium using its filed rates and rules.
- 4. The Examiners reviewed 7 of the 45 dwelling fire policies in force as of August 16, 1994. As to these, OPAC issued 3 policies (43%) at rates not consistent with OPAC's filed rates, resulting in two (2) insureds paying a total of \$51 more than they would have paid, and one (1) insured paying \$41 less than he would have paid, had OPAC determined the premium using its filed rates and rules.
- 6. The examiners reviewed 18 of the 20 OPAC personal umbrella policies in force as of August 16, 1994. Of these,
- a. vehicles such as vans, motorhomes and motorcycles which were rated in seven (7) policies (39%) as "recreational Vehicles" although that term was defined by the policy as "not required to be licensed for highway use"; and
- b. one (1) policy (5.6%) was rated using an incorrect territory classification.

- 7. The Examiners reviewed 111 personal automobile policy cancellations and non-renewals of the 1358 issued from January 22, 1988 through August 3, 1994. Of these,
- a. OPAC failed to provide specific facts constituting the reasons for 2 of the 59 cancellations for underwriting-related reasons (3.4%).
- b. OPAC nonrenewed 3 policies for nonpayment of premium without stating the reason for nonrenewal, without providing a grace period of at least 7 days after the due date prior to nonrenewal, and without mailing a notice of nonrenewal to each insured on the effective date of nonrenewal.
- c. OPAC nonrenewed 10 policies without providing a grace period of at least 7 days after the due date prior to nonrenewal, and without mailing a notice of nonrenewal to each insured on the effective date of nonrenewal.
- d. OPAC cancelled 2 policies which had been in force for 60 days or more for reasons other than those stated in A.R.S. $\S 20-1632(C)$.
- e. In its notices of cancellation or nonrenewal, OPAC stated that a deposit of \$10.00 must accompany any complaint to the Director.
- 8. OPAC cancelled or nonrenewed 1,182 homeowner policies from April 2, 1988 through August 2, 1994. Of these, OPAC nonrenewed one (1) policy due to the condition of the dwelling but failed to allow the insured 30 days to remedy the identified condition.
- 9. The Examiners reviewed 11 of OPAC's first-party automobile total loss claim files. As to these, OPAC failed to

pay 4 claimants (36%) a total of \$782.42 for applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. OPAC has since paid these claimants the amounts due them, plus interest at the rate of 10% per annum.

CONCLUSIONS OF LAW

- 1. By issuing personal automobile, dwelling fire, and excess liability policies at premiums other than based upon its filed rates and rules, OPAC violated A.R.S. § 20-385(A).
- 2. By failing to provide specific facts constituting the reasons for cancellations and nonrenewals of personal autopolicies, OPAC violated A.R.S. § 20-1632(A)(1).
- 3. By failing to allow grace periods of at least 7 days before cancelling or nonrenewing personal auto policies, OPAC violated A.R.S. § 20-1632.01(A).
- 4. OPAC violated A.R.S. § 20-1632.01(B) by failing to mail notices of cancellation or nonrenewal for nonpayment of premium to insureds on the effective date of cancellation or nonrenewal.
- 5. OPAC violated A.R.S. § 20-1632(C) by cancelling personal auto policies which had been in force for 60 days or more for reasons other than those stated therein.
- 6. By stating in its notices of cancellation or nonrenewal for underwriting-related reasons that a deposit of \$10.00 must accompany any complaint to the Director concerning the cancellation or nonrenewal, OPAC violated A.R.S. \$ 20-1632(A)(2).

. . . .

7. By nonrenewing a homeowners policy because of the condition of the dwelling without allowing the insured 30 days to remedy the identified condition prior to the payment of renewal premium, OPAC violated A.R.S. § 20-1652(B).

- 8. By failing to pay first-party total loss claimants for all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile, OPAC violated A.A.C. R4-14-801(H)(1)(b) and A.R.S. § 20-461(A)(6).
- 9. Grounds exist for the entry of the provisions of the following Order.

ORDER

OPAC, having admitted the jurisdiction of the Director to enter the Order set forth herein, having waived the Notice of Hearing and the hearing, having waived any and all rights to appeal this Order, and having consented to the entry of the Order set forth hereafter, and there being no just reason for delay:

IT IS HEREBY ORDERED THAT:

- 1. OPAC shall cease and desist from:
- (a) issuing personal auto, dwelling fire, and excess liability policies at premiums other than those determined using rates and supplementary rate information which have been filed with the ADOI;
- (b) failing to allow a grace period of at least 7 days after the premium due date on all personal automobile policies before cancelling or nonrenewing a policy for nonpayment of premium;

- (c) failing to mail a notice of cancellation or nonrenewal on the effective date of the cancellation or nonrenewal;
- (d) stating in any of its notices of cancellation or nonrenewal that a deposit of \$10.00 must accompany any complaint to the Director concerning the cancellation or nonrenewal; and
- (e) failing to pay all first-party total loss claimants for all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile.
- 2. Within thirty (30) days of the filed date of this Order, OPAC shall file with the Rates and Regulations Division of the ADOI a modification of its rating rules to clarify whether drivers age 65 or over should be rated differently from drivers over age 50 but younger than 65.
- 3. Within thirty (30) days of the filed date of this Order, OPAC shall file with ADOI its notices of cancellation and non-renewal, modified to delete any reference to a deposit of \$10.00 where complaints are made to the Director with regard to the cancellation or non-renewal.
- 4. Within sixty (60) days of the filed date of this Order, OPAC shall submit to the Director written action plans to monitor and ensure that:
- (a) all personal auto, dwelling fire, and excess liability policies are issued on the basis of its filed rates and rules in compliance with A.R.S. § 20-385;
- (b) policy cancellations and nonrenewals for nonpayment of premium are issued in accordance with A.R.S. §

20-1632.01. OPAC shall include within this action plan notices of cancellation and nonrenewal drafted in accordance with this statute;

- (c) its claims personnel and independent adjusters pay first-party total loss claimants for applicable taxes, license fees and other fees in compliance with A.R.S. §§ 20-461 and A.A.C. R4-14-801(H).
- 5. Within sixty (60) days from the filed date of this Order, OPAC shall make refunds to its insureds for premium overcharges as follows:

A93029036, \$53.00 F94005905, 31.00 F9401280, 20.00.

OPAC shall pay these insureds interest on the above amounts at the rate of ten percent (10%) per annum, calculated from the date the premium was paid by the insured to the date of payment. Each of these refunds shall be accompanied by a letter to the insured in a form acceptable to the Director. A list of refunds, giving the name and address of the party to whom the refund was made, the amount of the refund, the amount of interest paid, and the date of payment, shall be provided to the ADOI within seventy (70) days of the filed date of this Order.

- 6. The ADOI shall be permitted, through authorized representatives, to verify that OPAC has complied with all provisions of this Order, and the Director may separately order OPAC to comply.
- 7. OPAC shall pay a/clyil penalty of Tive Thousand One Hundred Dollars (\$5,100) to the Director for remission to the State Treasurer for deposit in the State General Fund in

accordance with A.R.S. § 20-220(B). This civil penalty shall be provided to the Market Conduct Examinations Division of the ADOI on or before June 5, 1995.

Market Conduct Examination of the Report of 8. The Affairs of OPAC as of September 16, 1994, including the response to the Report submitted by Respondents, shall be filed with the ADOI.

DATED at Phoenix, Arizona this 3rd day of August ,1995.

Director of Insurance

CONSENT TO ORDER

- 1. Respondent, Omaha Property and Casualty Insurance Comapny, has reviewed the foregoing Order.
- 2. Respondent is aware of its right to a hearing, at which hearing Respondent may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such public hearing and to any court appeals relating thereto.
- 3. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and consent to the entry of this Order.
- 4. Respondent states that no promise of any kind or nature whatsoever was made to induce them to enter into this Order and that they have entered into this Order voluntarily.
- 5. Respondent acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely for the purpose of settling this litigation against it and does not preclude any other agency or officer of the state or subdivision thereof from instituting other civil or criminal proceedings as may be appropriate now or in the future.
- 6. Kathryne A. Cutler represents that, as Vice President , she is an officer of Respondent, and that as such, she has been authorized by Respondent to enter into this Order for and on their behalf.

June	23,	1995
	Dat	е

1 COPY of the foregoing mailed/delivered , 1995, to: this 3rd day of August 2 Charles R. Cohen 3 Deputy Director Gregory Y. Harris Executive Assistant Director Erin Klug 5 Executive Assistant to the Director Jimmy R. Potts 6 Examinations Coordinator Market Conduct Examinations Division Saul Saulson Supervisor 8 Market Conduct Examinations Division Deloris E. Williamson 9 Assistant Director Rates & Regulations Division 10 Gary Torticill Assistant Director and Chief Financial Examiner 11 Corporate & Financial Affairs Division Cathy O'Neil 12 Assistant Director Consumer Services and Investigations 13 Dean Ehler Supervisor 14 Property and Casualty Section 15 DEPARTMENT OF INSURANCE 2910 North 44th Street, Suite 210 16 Phoenix, AZ 85018 17 Kathryne A. Cutler, Vice President 18 Omaha Property and Casualty Insurance Company 3102 Farnam Street 19 Omaha, Nebraska 68131 20 21 22 23 24

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